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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,688	10/22/2003	Mikhail Kejzelman	003301-052	4914

21839 7590 12/12/2005

BUCHANAN INGERSOLL PC  
(INCLUDING BURNS, DOANE, SWECKER & MATHIS)  
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EXAMINER
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MAI, NGOCLAN THI

ART UNIT	PAPER NUMBER
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1742

DATE MAILED: 12/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/689,688

**Applicant(s)**

KEJZELMAN ET AL.

**Examiner**

Ngoclan T. Mai

**Art Unit**

1742

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 18-27,29-31,33-38,40 and 41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18-27 and 29-31 is/are allowed.
- 6) ☒ Claim(s) 33-38,40 and 41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. Applicant's arguments with respect to claims 18-23, 29-38 and 40-41 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Claim Rejections - 35 USC § 102***

2. Claims 33-38 and 40-411 are rejected under 35 U.S.C. 102(b) as being anticipated by Hughes et al. (U.S. Patent No. 5,541,249)

Hughes disclosed powder composition comprising a particles of metal and an organosilane represented by the formula  $\text{SiX}_1\text{X}_2\text{X}_3\text{X}_4$  where at least on of  $\text{X}_1$ ,  $\text{X}_2$ ,  $\text{X}_3$ , or  $\text{X}_4$  is an unfunctionalized alkyl group, having from about 10-35 carbon atoms, col. 2, l. 24-34 and at least one of  $\text{X}_1$ ,  $\text{X}_2$ ,  $\text{X}_3$ , or  $\text{X}_4$  is an alkoxy group having from 1 to 5 carbons, col. 2, l. 34-42. The metal powder can be iron and stainless steel, i.e., iron-based powder, see col. 3, l. 50-51. Hughes does not teach the presence of graphite, however the composition taught still reads on the claimed composition because the limitation up to 1% by weigh of graphite include zero as the lower limit, see MPEP 2173.05(c) II.

As for claim 35, regarding the silane, see Table I, third silane agent.

As for claim 36-38, regarding the amount of silane used, see col. 3, l. 38.


As for claims 40-41, regarding the alloying elements, Hughes et al do not teach the inclusion such element, however the composition taught still reads on the claimed composition because the limitation "up to" 10% by weigh include zero as the lower limit, see MPEP 2173.05(c) II.

3. Claims 18-27, 29-31 are allowable.
4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoclan T. Mai whose telephone number is (571) 272-1246. The examiner can normally be reached on 9:30-6:00 PM Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on (571) 272-1244. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1742

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Ngoelan T. Mai  
Primary Examiner  
Art Unit 1742

n.m.